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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,769	03/16/2004	Darryl L. Schmitz	8929/3049	3138
34205	7590	12/06/2006	EXAMINER	
OPPENHEIMER WOLFF & DONNELLY LLP 45 SOUTH SEVENTH STREET, SUITE 3300 MINNEAPOLIS, MN 55402			MAYO, TARA L	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/801,769

Applicant(s)

SCHMITZ ET AL.

Examiner

Tara L. Mayo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-7,9 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,9 and 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. Claims 1, 4, 5, 6, 7, 9 and 17 through 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shepherd (U.S. Patent No. 195,850) in view of Roseberger (U.S. Patent No. 2,247,667).

Shepherd '850, as seen in Figures 1 and 2, shows a sleep surface comprising:  
with regard to claim 1,

a first section (A) having a longitudinal side including a first upper lip (E) and a first lower lip (G'), each of said first upper and lower lips having an inner surface and an outer surface, said upper and lower lips defining a receiving channel therethrough;

a second section (C) having a longitudinal side including a second upper part (upper rim) and a second lower part (lower rim), each of said second upper and lower parts having an inner surface and an outer, said second upper part and said second lower part being received into said receiving channel, wherein the outer surface of said second upper part abuts the inner surface of said first upper lip and the outer surface of said second lower part abuts the inner surface of said first lower lip forming an overlap between the first section and the second section, wherein said longitudinal side of said second section is attached to the longitudinal side of the first section; and further wherein each section is constructed and arranged to maintain an air pressure therein that is independent of an air pressure in the other section; and further wherein said first and second bladders are capable of being folded into a sleeper sofa when not in use (specifically, by detachment of one of elements E and E');

with regard to claim 9,

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further comprising a reinforcing member (G) operably attached to the first and second sections over the overlap.

Shepherd '850 fails to teach:

the second upper and lower parts being upper and lower lips, respectively;

the first and second sections being bladders;

the longitudinal side of the first bladder being heat welded to the longitudinal side of the second bladder; and

the longitudinal side of the second bladder being attached to the longitudinal side of the first bladder with a hook and loop fastener, a zipper or a plurality of snaps.

Roseberger '667, as best seen in Figures 4, 6 and 7, shows a sectional mattress comprising upper and lower lips (formed by the combination of elements 15 and 16), the lips being formed by stitching along the borders of the mattress component where the material forming the sides, tops and bottoms of the components meet.

With regard to claim 1, it would have been obvious to one having ordinary skill in the art of beds at the time the invention was made to modify the device shown by Shepherd '850 by substituting bladders for the first and second sections since the Examiner takes Official Notice of the functional equivalence of bladders and mattresses as sleep surfaces in the art of beds.

With regard to claims 1 and 17, while Shepherd '850 does not clearly show second upper and lower lips as claimed, Roseberger '667 expressly teaches the same, which are common in the

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art of mattresses. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to provide the second section with upper and lower lips along the longitudinal edges as taught by Roseberger '667. The motivation would have been to seal the edges of the mattress.

With regard to claim 4, it would have been obvious to one having ordinary skill in the art of beds at the time the invention was made to modify the device shown by Shepherd '850 such that the longitudinal side of the first bladder would be heat welded to the longitudinal side of the second bladder. The motivation would have been to permanently secure the first and second bladders to one another.

With regard to claims 5 through 7, it would have been obvious to one having ordinary skill in the art of beds at the time the invention was made to modify the device shown by Shepherd '850 such that the longitudinal side of the second bladder would be attached to the longitudinal side of the first bladder with a hook and loop fastener, a zipper or a plurality of snaps instead of buttons. The motivation would have been to releasably secure the first and second bladders to one another with attachment means equivalent to buttons.

With regard to claims 17 through 20, the method steps recited therein are inherent to the use of the device shown by Shepherd '850 and as modified above.

With specific regard to claims 17, 21 and 22, in view of the teaching by Shepherd '850 for the desirability of making mattresses more convenient for packing or handling (second full para.), it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method disclosed by Shepherd '850 such that it would further include the step of folding an inflatable mattress comprising the first and second bladders into a sleeper

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sofa when not in use since the Examiner takes Official Notice of the same. The motivation would have been to facilitate the use and storage of the prior art device in a sleeper sofa.

### ***Response to Arguments***

2. Applicant's arguments, see the Remarks, filed 17 November 2006, with respect to the rejection(s) of claim(s) 1, 4, 5, 6, 7, 9 and 17 through 20 under 35 USC §103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Roseberger '667.

3. In response to Applicant's challenge of the Official Notice taken in the Office Actions mailed 15 December 2005 and 21 August 2006, it is the Examiner's position that the subject matter of the Official Notice is now admitted prior art because Applicant failed to present his challenge in response to the former of the Office Actions.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tlm

01 December 2006

  
**TARA L MAYO**  
**PATENT EXAMINER**